

0
177949

BEFORE THE DEPT. OF TRANSPORTATION
DEPARTMENT OF TRANSPORTATION DOCKETS
WASHINGTON, D.C. 02 JUN 28 PM 4: 18

Application of)
)
)
 EVERGREEN INTERNATIONAL)
 AIRLINES, INC.)
)
 for an exemption from the provisions)
 of 49 U.S.C. § 41101 and allocation of)
 frequencies (U.S.- Ecuador scheduled)
 all-cargo service))
)

Docket OST-2002-12503- 4

APPLICATION OF
EVERGREEN INTERNATIONAL AIRLINES, INC.
FOR AN EXEMPTION AND ALLOCATION OF FREQUENCIES

Communications with respect to
this document should be sent to:

Anthony E. Bauckham
Executive Vice President
EVERGREEN INTERNATIONAL
AIRLINES, INC.
3850 Three Mile Lane
McMinnville, Oregon 97128-9496

Thomas V. Lydon
Director of Government Affairs
EVERGREEN INTERNATIONAL
AIRLINES, INC.
1629 K Street, NW, Suite 301
Washington, D.C. 20006

William C. Evans (wcevans@verner.com)
John R. Mietus, Jr. (jrmietus@verner.com)
VERNER, LIIPFERT, BERNHARD,
McPHERSON AND HAND
CHARTERED

901 15th Street, NW, Suite 700
Washington, D.C. 20005
(202) 371-6030/6031
(202) 371-6279 fax

**Service by e-mail or fax requested in this
proceeding**

Counsel for EVERGREEN
INTERNATIONAL AIRLINES, INC.

DATED: June 28, 2002

BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

Application of)	
)	
)	
EVERGREEN INTERNATIONAL)	
AIRLINES, INC.)	
)	Docket OST-2002-12503
for an exemption from the provisions)	June 28, 2002
of 49 U.S.C. § 41101 and allocation of)	
frequencies (U.S.- Ecuador scheduled)	
all-cargo service))	
)	

APPLICATION OF
EVERGREEN INTERNATIONAL AIRLINES, INC.
FOR AN EXEMPTION AND ALLOCATION OF FREQUENCIES

By Notice dated June 14, 2002, in the above-referenced docket, the Department invited interested carriers to apply for new or additional frequencies for scheduled all-cargo service between the U.S. and Ecuador. Pursuant to that Notice, 49 U.S.C. § 40109 and Subpart C of the Department's Rules of Practice, Evergreen International Airlines, Inc. ("Evergreen") respectfully requests an exemption from 49 U.S.C. § 41101 to the extent necessary to permit it to engage in scheduled foreign air transportation of property and mail between Miami, Florida and the co-terminals Guayaquil, Latacunga and Quito, Ecuador. Evergreen also seeks to integrate the proposed authority with its existing certificate and exemption authority consistent with applicable aviation agreements. In addition, Evergreen seeks an allocation of two weekly round trip frequencies.

Grant of the requested authority is consistent with the U.S.-Ecuador Air Transport Agreement and the May 30, 2002 "Minutes of the Meeting" that extended application of that Agreement through June 30, 2003, increased available all-cargo frequencies from 15 to 30, and suspended application of the aircraft substitution formula set forth in Annex I, section III(3) of the Agreement. Authorizing Evergreen to serve the U.S.-Ecuador market will introduce new competition to the market and generate important public service benefits. Evergreen requests that the exemption be granted for an initial period of two years and assumes that the frequencies will be awarded for an indefinite period, subject to the Department's standard dormancy provisions.

In support of its application, Evergreen states as follows:

1. Evergreen is an air carrier of property and mail holding certificates of public convenience and necessity and exemption authority authorizing it to engage in domestic air transportation of cargo and scheduled all-cargo foreign air transportation between the U.S. and more than 160 foreign countries. It also holds worldwide cargo charter authority. See Order 99-12-7. Evergreen continues to be a U.S. citizen and to be fit, willing and able to conduct the operations proposed herein.

2. By the present application, Evergreen seeks (a) an exemption authorizing it to engage in foreign air transportation of property and mail between Miami, Florida and the co-terminals Guayaquil, Latacunga and Quito, Ecuador, and (b) an allocation of two weekly round trip all-cargo frequencies. Evergreen proposes to operate two weekly round trips with B-747-100/200 freighter aircraft departing the U.S. on Thursdays and

Sundays. A specimen schedule is contained in the Attachment.^{1/} The aircraft are on hand and have a capacity of approximately 100 tons or more. Evergreen's B-747 fleet currently consists of five B-747-100 and five B-747-200 aircraft, all of which comply with FAR Part 36. The aircraft are used primarily for Air Mobility Command, scheduled and charter services, and ACMI/wet lease operations, and Evergreen anticipates that this fleet offers sufficient aircraft availability to operate the proposed U.S.-Ecuador service. If Evergreen receives authority from the Department to serve the market, it will be prepared to institute service within 90 days of the date it receives the required permits from the Government of Ecuador.

3. As noted in the Attachment, in addition to Miami-Ecuador nonstop service, Evergreen also proposes to offer service behind Miami to and from New York. Today, there is no freighter service between New York and Ecuador, so that the selection of Evergreen would generate significant new service benefits for the shipping public. Moreover, Evergreen would be able to link up its Ecuador-U.S. service with its U.S.-Asia services and thereby afford Ecuadorian importers and exporters a new opportunity to gain improved access to the Far East. According to The Export and Investment Promotion Corporation of Ecuador, *www.corpei.org*, Asia is a significant customer of Ecuadorian

^{1/} Latacunga may be served as an alternative to Quito depending upon traffic demands.

Evergreen forecasts that its proposed operation will consume less than 10 million gallons of fuel per year, and Evergreen does not anticipate any difficulty in obtaining the required fuel. Evergreen therefore requests, to the extent necessary, that the Department waive, or exempt Evergreen from, any environmental review otherwise required under Part 313 of the Department's Economic Regulations.

products such as seafood, shrimp, coffee, cocoa beans and bananas. Similarly, Evergreen knows from its experience in Asia and its knowledge of Asian commerce that there are growing markets between Asia and South American countries, including Ecuador. In addition to the service benefits offered under Evergreen's proposal, the ability to route New York and Asia traffic via the Miami gateway also will enhance the economics of the Ecuador service.

4. Evergreen is a logical choice for entry into the U.S.-Ecuador market.

- Evergreen is an experienced, international, all-cargo airline. It has provided scheduled, all-cargo service to Russia, Australia, Korea, New Zealand, Fiji, Hong Kong, Singapore, Taiwan, Indonesia and Thailand. It also conducts time-sensitive, global operations for the U.S. military on a regular basis. Thus, Evergreen has significant experience in responding to commercial and government demands for quality, scheduled service, and it intends to bring this experience to the U.S.-Ecuador market.

- Evergreen would be a new entrant into the U.S.-Ecuador market and would bring to the market the enthusiasm and competitiveness of a new entrant airline. The Department recognized the benefits of introducing a new U.S.-Ecuador competitor in its last grant of Ecuador all-cargo authority in Order 2000-10-19.

- For some time, Evergreen has targeted the U.S.-South America market as evidenced by its recent applications for limited-entry Ecuador and Brazil authority,^{2/} and the company has a continuing interest in entering the market. Evergreen maintains an

^{2/} See applications filed in Dockets OST-2000-7513 and 2000-7559.

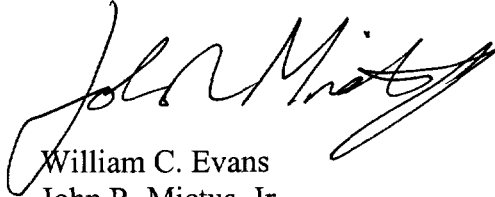
office in Ecuador from which its Director of Sales is in contact with local shippers regarding both charter and potential scheduled service. Evergreen believes this network, along with its other customer contacts in the U.S. and worldwide, will readily support a new, reliable service between the U.S. and Ecuador. Evergreen also plans to enter the U.S.-Colombia market, in which it recently was awarded exemption authority, initially through a code-sharing arrangement with TAMPA Airlines. See Docket OST-02-12539. Evergreen also is examining business opportunities in Argentina and Peru in light of those countries' significant trade with the U.S. In the words of Delford M. Smith, Evergreen's founder and owner, "Evergreen's mission is to provide its customers with quality products and services, and to identify needs and surpass expectations by finding solutions that make sense for the bottom line."^{3/} The service Evergreen provides under this mission statement will be attractive to U.S.-South America shippers, and the newly-liberalized U.S.-Ecuador all-cargo market is an appropriate place for the Department to make such service a reality.

5. It is clear that the proposed service would generate significant benefits for the shipping public, and consumers in general, by providing new competitive alternatives for the movement of U.S.-Ecuador cargo. A grant of the application is in the public interest and furthers U.S. international aviation policy.

^{3/} December 7, 2000 Amended Application of Evergreen, *U.S.-Brazil All-Cargo Frequencies & Designation*, Docket OST-00-7559.

WHEREFORE, Evergreen International Airlines, Inc. respectfully requests that the Department grant this application in its entirety and such other and different relief as the Department may deem in the public interest.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John R. Mietus, Jr.", written over the printed name.

William C. Evans
John R. Mietus, Jr.
VERNER, LIIPFERT, BERNHARD,
McPHERSON and HAND, Chartered
901 15th Street, NW, Suite 700
Washington, DC 20005
Counsel for Evergreen International Airlines, Inc.

DATED: June 28, 2002

**EVERGREEN'S PROPOSED
NEW YORK/MIAMI – ECUADOR SERVICE**

Thursday Roundtrip

ORIGIN:	DEPARTS:	DESTINATION:	ARRIVES:
New York	2300	Miami	0130
Miami	0330	Quito	0730
Quito	1015	Guayaquil	1115
Guayaquil	1315	Miami	1715
Miami	1915	New York	2145

Sunday Roundtrip

ORIGIN:	DEPARTS:	DESTINATION:	ARRIVES:
New York	2300	Miami	0130
Miami	0330	Quito	0730
Quito	1015	Guayaquil	1115
Guayaquil	1315	Miami	1715
Miami	1915	New York	2145


All times are local.

B-747-100/200 equipment will be used.

Latacunga may be substituted for Quito depending upon cargo demand.

CERTIFICATE OF SERVICE

I hereby certify that I have this 28th day of June 2002, served a copy of the foregoing Application upon those persons on the attached list by first-class mail, postage prepaid or, where authorized, by facsimile or electronic mail.



John R. Mietus, Jr.

SERVICE LIST

Robert P. Silverberg (ABX/Kitty Hawk)
Silverberg, Goldman Bikoff
1101 30th Street, N.W., Suite 120
Washington, DC 20007

David E. Vaughan (UPS)
Kelley, Drye & Warren
1200 18th Street, N.W., Suite 500
Washington, DC 20036

Steve Lachter (DHL/Northern Air Cargo)
1150 Connecticut Ave., N.W.
Washington, DC 20036

Nathaniel Breed (Federal Express)
Shaw Pittman
2300 N Street, N.W.
Washington, DC 20037

Marshall Sinick (Florida West)
Squire Sanders & Dempsey
1201 Pennsylvania Ave., N.W., #500
Washington, DC 20004

James W. Tello (Air Transport Int'l.)
P.O. Box 66824
Washington Square Station
Washington, DC 20035

Pierre Murphy
2445 M Street, N.W., Suite 260
Washington, DC 20037

John Richardson (Amerijet)
Crispin & Brenner PLLC
1156 15th Street, N.W., #1105
Washington, DC 20005

Jeffrey Manley (Polar Air)
Wilmer, Cutler & Pickering
2445 M Street, N.W.
Washington, DC 20037

National Air Carrier Association
1730 M Street, N.W., #806
Washington, DC 20036

Moffett Roller (Gemini Air Cargo)
Roller & Bauer
1020 19th Street, N.W., #400
Washington, DC 20036

Russ Pommer
Atlas Air, Inc
901 15th Street, N.W., Suite 400
Washington, DC 20005

Air Transport Association
International Dept., Suite 1100
1301 Pennsylvania Avenue, N.W.
Washington, DC 20004

U.S. Department of State
Office of Aviation Negotiations
2201 C Street, N.W.
Washington, DC 20520

Federal Aviation Administration
AFS-200
800 Independence Ave., S.W.
Washington, DC 20591

Ambassador of Ecuador
2535 15th Street, N.W.
Washington, DC 20009

Richard P. Taylor
Steptoe & Johnson
1300 Connecticut Avenue, N.W.
Washington, DC 20036

Lawrence D. Wasko (Arrow Air)
Jacquelyn Gluck
1150 Connecticut Ave., NW, Suite 900
Washington, DC 20036